

December 2, 2014

Senate Insurance Committee

SB 1140

Good afternoon. Thank you for the opportunity to make a few remarks in support of Senate Bill 1140.

I am Dyck Van Koevering, General Counsel for the Insurance Institute of Michigan (IIM), a statewide trade association representing the property & casualty insurance industry. For purposes of SB 1140, this includes auto no-fault insurers representing approximately 75% of Michigan auto insurance market.

As you know, IIM has been very involved in the debate over broader no-fault reform. At the same time, however, we look for other opportunities to address more narrowed issues which come up from time to time in the courts or otherwise. SB 1140 attempts to address and clarify a few of these.

First, SB 1140 amends Sec. 500.3113 of the insurance code to provide that those who are knowingly using a stolen vehicle at the time of a car accident and injury are not entitled to receive auto no-fault Personal Injury Protection – or PIP - benefits.

Insurers believed this issue was clearer before the 2010 case of *Henry Ford Health Systems v Esurance* (2010), where the Court of Appeals held that only the person who actually stole the car was precluded from benefits.

Second, the bill amends the insurance code to provide clarity with respect to an existing exclusion commonly called the “Named Excluded Driver,” and allowed by 500.3009(2). The Named Excluded Driver exclusion allows a couple or family to insure a car, and/or get a better rate, by excluding a driver in the household who is otherwise uninsurable or a very high risk.

However, 500.3113 does not similarly include a “named excluded driver” exclusion. More recently, courts have begun to treat these situations similarly to a stolen vehicle. We think it would be better to clarify the exclusion.

Finally, SB 1140 addresses a narrow loophole involving non-Michigan residents travelling in Michigan in their non-Michigan vehicles. Currently, there are no Michigan No-Fault PIP benefits for non-residents, in their non-Michigan vehicles, insured by an insurance company not licensed to do business in Michigan. But the Michigan Court of Appeals recently found in favor of benefits because a family did have a vehicle parked back home in their garage in another state that was insured by a Michigan-licensed carrier.

SB 1140 closes this loophole and would provide that the insurance had to be on the vehicle they’re in at the time of the accident, as opposed to any vehicle they own.

Thank you for your time. I’d be happy to take any questions